

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1956

No. 403

HENRY RAGONTON RABANG, PETITIONER,

*vs.*

JOHN P. BOYD, DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

## INDEX

	Original	Print
Record from the United States District Court for the Western District of Washington, Northern Division	1	1
Petition for writ of habeas corpus to show cause and for declaratory judgment	4	1
Order to show cause	11	5
Return to order to show cause and petition for writ of habeas corpus	12	6
Exhibit "A"—Records from the Immigration and Naturalization Service, Department of Justice	16	8
Director's certificate (omitted in printing)	16	
Order of Board of Immigration Appeals of April 7, 1955 denying motion for reconsideration	17	8
Motion dated March 1, 1955, by Acting Regional Commissioner that Board of Immigration Appeals reopen and reconsider case	21	11

Record from the United States District Court for the  
Western District of Washington, Northern Division  
Continued

Return to order to show cause and petition for writ  
of habeas corpus—Continued

Exhibit "A"—Records from the Immigration and  
Naturalization Service, Department of Justice—  
Continued

	Original	Print
Order of Board of Immigration Appeals of February 6, 1952 dismissing appeal from decision of Commissioner	23	12
Warrant of deportation of October 26, 1951	25	13
Order of Assistant Commissioner of October 26, 1951	26	14
Transcript of evidence before Hearing Officer of March 28, 1951	30	16
Warrant of arrest and Form Letter I-226	49	31
Record and statement of facts re admission of alien	54	37
Indictment returned in United States District Court for the Western District of Wash- ington	56	38
Judgment, sentence and order of probation re above indictment	58	39
Memoranda re status of petitioner as an alien (omitted in printing)	61	
Findings of fact and conclusions of law	98	41
Order denying application for habeas corpus	101	43
Notice to counsel of action of Court	102	44
Notice of appeal	103	45
Cost Bond (omitted in printing)	104	
Letter of transmittal of notice of appeal (omitted in printing)	105	
Clerk's certificate (omitted in printing)	106	
Proceedings in the United States Court of Appeals for the Ninth Circuit	108	45
Order of submission	108	45
Order directing filing of opinion and filing and recording of judgment	109	46
Opinion, Boldt, D. J.	110	46
Judgment	113	49
Clerk's certificate (omitted in printing)	114	
Order allowing certiorari	115	49

[fols. 1-4]

**IN UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON, NORTH-  
ERN DIVISION**

No. 3949

HENRY RAGINTON RABANG, Petitioner,

vs.

JOHN P. BOYD, District Director, Immigration & Naturaliza-  
tion Service, Respondent

**PETITION FOR WRIT OF HABEAS CORPUS AND SHOW CAUSE, AND  
DECLARATORY JUDGMENT**

Petitioner respectfully shows the Court, and alleges as  
follows:

**Cause I**

1

The jurisdiction of this Court arises under Title 28,  
United States Code, Section 2241, and Title 5, United States  
Code, Section 1009, and Title 28, United States Code, Sec-  
tions 2201 and 2202.

2

This is an action where petitioner is now in the custody  
of respondent and restrained of his liberties under color of  
the authority of the United States, or will be, not later  
than 4:00 P. M. Wednesday, May 25, 1955, the date of filing  
this petition; and this is a proceeding wherein petitioner  
is threatened with immediate deportation from the United  
[fol. 5] States as an alleged alien unlawfully in the United  
States, and wherein an actual controversy exists between  
petitioner and respondent, John P. Boyd, concerning the  
authority of said respondent to continue petitioner in cus-  
tody and to deport him; and wherein injunctive relief, or  
order to show cause, that will prevent irreparable injury  
or harm to petitioner, and to effectuate the review of pro-  
ceedings to date, and the legality of such imprisonment  
and imminent deportation.

That respondent, John P. Boyd is the District Director of Immigration and Naturalization, and he has been duly appointed and is now acting in said office, and resides in, and has his principle place of business in Seattle, Washington within the jurisdiction of the above-entitled court.

That petitioner is a permanent resident of Seattle, King County, Washington, and has resided continuously in the United States of America since January 24, 1930; petitioner was born in the Philippine Islands, and came to the United States as a National of the United States at which time he declared his intention of being a permanent resident of the United States, and petitioner has, at all times herein mentioned, intended to become a United States citizen.

[fol. 6]

That on or about March 21, 1951 petitioner was arrested pursuant to a warrant of arrest issued by the Acting District Director of the United States Immigration and Naturalization Service, Seattle, Washington, said warrant of arrest charging that petitioner was an alien found to be in the United States in violation of the Immigration and Naturalization laws, and was subject to deportation on the ground that petitioner, a person born in the Philippine Islands, had, on or after June 28, 1940 been convicted of a violation of law relating to narcotics.

That in truth and in fact petitioner was convicted upon his plea of guilty of the offense of violation of Section 2554A, Title 26, U. S. Code, but petitioner, however, was not imprisoned pursuant to said judgment of conviction, and a sentence of six (6) months was suspended, and the defendant was placed upon probation as provided by law for a period of three (3) years, commencing from the 12th day of February 1951, said probation being conditioned upon petitioner's good behavior, and upon regular reports to the United States Probation Officer as directed. That



petitioner followed and abided by all such terms and conditions, and, at the end of said three year period he was duly and regularly discharged from said probation and [fol. 7] sentence.

7

That thereafter petitioner exhausted his administrative remedies, including an appeal to the Board of Immigration appeals, and thereafter sought judicial review of said order of deportation, and following an adverse decision by the above-entitled court petitioner ~~appealed to the Court of Appeals, Ninth Circuit;~~ that said appeal was dismissed because petitioner was without funds, and because it was believed by petitioner, and by the Immigration and Naturalization Service, locally, that petitioner's case would be determined by the appeals in the cases of Mangaoang v. Boyd, Gonzales v. Boyd, Alcantra v. Boyd, and Peraulta v. Boyd, said cases being cases involving the status of Filipinos residing in the United States and who came to the United States prior to the Philippine Independence Act of 1934.

8

That thereafter, the local office of the Immigration and Naturalization service moved to dismiss the order of deportation against petitioner based upon the decisions in said cases, but said Board of Immigration Appeals has refused to dismiss said order of deportation, and pursuant thereto, respondent Boyd has taken the above-described action to bring about the immediate deportation of petitioner.

[fol. 8]

9

That petitioner is not a person subject to deportation under any lawful and constitutional provision of law on the ground, and for the reason, that petitioner is not now an alien and has not been an alien during all the times herein mentioned, that the provision under which petitioner is sought to be deported has been amended or repealed, and petitioner has not been convicted, imprisoned or sentenced within the meaning of the Immigration laws, and said conviction, if any, was not a conviction "after entry" as required by the applicable immigration laws;

4  
that a deportation of petitioner would deprive him of due process of law under the 5th Amendment to the United States Constitution.

## Cause II

For a second cause of action herein for declaratory and injunctive relief petitioner alleges:

1

Petitioner re-alleges paragraphs 1-9 inclusive, of Cause I, as though set forth in full in this cause of action.

2

That petitioner has exhausted his remedies, and is threatened with immediate and irreparable harm unless prevented from so doing by an Order to Show Cause or appropriate injunctive relief; and respondent will forcibly deport petitioner from the United States, all contrary to [fol. 9] law, and without any grounds therefore existing:

3

That petitioner is entitled to a review of the administrative proceedings hereinbefore taken pursuant to the Administrative Procedures Act, and for injunctive relief, or alternatively for review under the courts jurisdiction for a writ of habeas corpus.

Wherefore, petitioner prays relief as follows:

That respondent, John P. Boyd be restrained from taking petitioner into his physical custody or detaining petitioner in any place of physical confinement, and from deporting petitioner pursuant to any proceedings hereinbefore taken.

2. That this court, order and direct that petitioner, pending the final determination of the merits of this petition continue to be enlarged under the order of supervisory parole heretofore established by respondent.

3. That this court declare that respondent, John P. Boyd has no jurisdiction over petitioner for purposes of deportation. That this court declare by way of declaratory judgment that petitioner is not an alien within the meaning

of the law, and is not subject to deportation pursuant to the outstanding warrant of deportation.

[fol. 10] 4. That petitioner be discharged from all custody of the respondent pursuant to said outstanding warrant of deportation.

5. That this court grant such other further or different relief as may be found to be just, proper and equitable in the premises.

(S.) C. T. Hatten, Attorney for Petitioner.

C. T. Hatten, 324 New World Life Bldg., Seattle 4, Washington.

Received 5/25/55, F. N. Cushman, Asst. U. S. Attorney.

[fol. 11] IN THE UNITED STATES DISTRICT COURT  
ORDER TO SHOW CAUSE

This matter having come on before the undersigned United States District Judge, on the filing of the Petition of Petitioner for declaratory judgment, habeas corpus and injunctive relief, and the Court having considered said petition, and being advised in the premises, now, therefore,

It is ordered that respondent, or persons acting under his direction or in his stead, *by* and appear in the above-entitled court at the hours of 2:00 o'clock P. M. on the 20th day of June, 1955, then and there to show cause, if any there *by*, why the respondent should not be enjoined and restrained from deporting the petitioner, or in the alternative, from discharging petitioner on writ of habeas corpus, and in granting petitioner the affirmative relief which petitioner seeks in said petition.

It is further ordered that petitioner may be released from custody, and remain at liberty under the terms and conditions of the parole agreement outstanding on May 25, 1955.

(S.) William J. Lindberg, Judge.

## [fol. 12] IN THE UNITED STATES DISTRICT COURT

RETURN TO ORDER TO SHOW CAUSE AND PETITION FOR WRIT  
OF HABEAS CORPUS

John W. Keane states that he is an attorney in the service of the United States Department of Justice, Immigration and Naturalization Service; that in his official capacity he is authorized to make in behalf of John P. Boyd, District Director, and hereby does make, the following return to the order to show cause herein.

## I

The petitioner on May 19, 1955, was directed to surrender to the respondent on Wednesday, May 25, 1955, for deportation pursuant to a valid order and warrant of deportation lawfully issued, in accordance with proceedings that were regular, fair, and in compliance with law, as appears from the records of the Department of Justice, Immigration and Naturalization Service, with respect to the petitioner, which records are hereby incorporated by reference to the same effect as though they had been fully set out herein and are attached hereto and marked Exhibit A.

## II

The petitioner is a native and citizen of the Philippine Islands who has never naturalized or otherwise become a citizen of the United States. He last entered the United [fol. 13] States at Seattle, Washington, on January 24, 1930, at which time he was admitted for permanent residence. He has resided in the United States at all times since that entry.

## III

On February 12, 1951, in the United States District Court at Seattle, Washington, he was convicted on his plea of guilty of selling and giving away narcotic drugs, in violation of 26 U. S. C. 2554(a). He was sentenced to confinement in the King County Jail for a period of six months on Count One of the indictment. The sentence was suspended and he was placed on probation for three years. All the foregoing is a matter of record in the office of the

Clerk of the United States District Court for the Western District of Washington, Northern Division; in Criminal Cause 48120, The United States of America vs. Henry Ragonton Rabang.

#### IV

Deportation proceedings were instituted against the petitioner February 27, 1951. He was accorded deportation hearing March 28, 1951, as a result of which the Hearing Officer recommended that he be deported from the United States pursuant to the act of February 18, 1931, as amended by Section 21, Title 2, Act of June 28, 1940, 8 U. S. C. 156(a), in that on or after June 28, 1940, he had [fol. 14] been convicted of the violation of a law relating to traffic in narcotics, to wit: sell and give away narcotic drugs in the form of morphine tartrate syrettes. On October 26, 1951, the Acting Assistant Commissioner, Adjudications Division, United States Immigration and Naturalization Service, adopted the findings and order of the Hearing Officer and ordered the petitioner deported. From this the petitioner appealed to the Board of Immigration Appeals, and on February 26, 1952, the Board of Immigration Appeals dismissed the appeal.

#### V

The action of the Immigration officials was reviewed by the United States District Court for the Western District of Washington, Northern Division, in Civil Cause 3481, which resulted in the dismissal of the petition for a writ of habeas corpus. On appeal to the Circuit Court of Appeals the Circuit Court on December 9, 1953, on motion of the Government, dismissed the appeal for a lack of prosecution.

On March 1, 1955, an application was made to the Board of Immigration Appeals for a reconsideration of its previous decision and order. The Board of Immigration Appeals on April 7, 1955, in a written decision, ordered that the motion for reconsideration be denied.

[fol. 15] The administrative deportation proceedings were all conducted and a warrant of deportation issued prior to the effective date of the Immigration and Nationality Act of 1952 which repealed the Act of February 18,



1931, as amended (Title 8 U. S. C. 156(a)) (Immigration and Nationality Act of 1952, Section 403(31)).

Nothing contained in the Immigration and Nationality Act of 1952, unless specifically provided for therein, affects the validity of a warrant of arrest, order, or warrant of deportation, or a proceeding which was valid on the effective date of the Act (Section 405(a), Immigration and Nationality Act of 1952, Note following Title 8 U. S. C. A. Section 1101).

Wherefore, it is prayed that petition for a writ of habeas corpus be denied and rule to show cause quashed.

(S.) John W. Keane, Attorney for the Respondent,  
(S.) F. N. Cushman, Assistant United States Attorney.

---

[fol. 16] EXHIBIT "A" TO RETURN TO RULE TO SHOW CAUSE

Director's Certificate to following transcript omitted in printing.

---

[fol. 17] UNITED STATES DEPARTMENT OF JUSTICE  
Board of Immigration Appeals

Apr 7 1955

File: A-5203748—Seattle

IN THE MATTER OF HERMOGENES RAGONTON RABANG OF HENRY  
RAGONTON RABANG OF JIMMY RANDALL

In Deportation Proceedings

In Behalf of Respondent: C. T. Hatten, Esquire, New World Life Building, Second Avenue at Cherry, Seattle 4, Washington.

Deportable: Act of 1931—Convicted of narcotic violation.

The Acting Assistant Commissioner, in a decision dated October 26, 1951, ordered that the subject alien be deported from the United States, pursuant to law, on the above-stated charge. On February 6, 1952 this Board dismissed the appeal from that decision. Subsequently, on May 14,



1952, we ordered that oral argument be granted in the case. Thereafter, however, and on July 4, 1952, we ordered that a motion requesting further consideration be denied. The case is now before us on motion for reconsideration filed by the Acting Regional Commissioner for the Northwest Region, at St. Paul, Minnesota.

The subject male alien is a native and citizen of the Philippine Islands. He last entered the United States at [fol. 18] Seattle, Washington on January 24, 1930. He was then admitted for permanent residence. He has resided in the United States at all times since that entry. He is married to a United States citizen. On February 12, 1951, in the United States District Court at Seattle, Washington, he was convicted, on his plea of guilty, of selling and giving away narcotic drugs (morphine tartrate syringes) in violation of 26 U. S. C. 2554(a). The court imposed a jail sentence of six months which was suspended and the respondent was placed on probation for three years.

On the basis of the foregoing, the alien is clearly deportable on the stated charge. Because he was convicted of the narcotics violation on February 12, 1951, he is deportable even though he was not required to serve any term of imprisonment. Also, the court did not, at the time of imposing judgment and passing sentence or within 30 days thereafter, make a recommendation that the respondent be not deported.

The present motion contains the request that this Board reconsider the case with a view to termination of the proceedings, or for such other action as we deem appropriate. The basis for the motion is set forth as being the decision of the United States Supreme Court in the case of *Barber v. Gonzales* (74 S. Ct. 822). Also, the motion sets forth that the alien is not subject to any pending criminal proceedings under Section 242(e) of the Immigration and [fol. 19] Nationality Act.

We have reached a conclusion that the motion for reconsideration should be denied. The reason for this conclusion is the fact that the case of *Barber v. Gonzales* (supra) is not applicable here. That is, we find that the facts of this case do not bring it within the scope of the decision of the Supreme Court in the *Barber* case.

Gonzales, a native and citizen of the Philippine Islands, came to the continental United States in 1930, prior to the Philippine Independence Act of March 4, 1934. He was sentenced to imprisonment in 1941 and 1950 for crimes involving moral turpitude. The Government sought to deport him under that portion of Section 19(a) of the Immigration Act of 1917, as amended, which required deportation for such crimes if committed *after entry*. The Court held that said statute set up entry as an alien as an essential element to deportability, and that Gonzales was not deportable because he had not made an entry as an alien, as he was a national of the United States at the time of his only entry into this country.

In this case, the alien involved is a native and citizen of the Philippine Islands, and he also came to the United States in 1930 at a time when he was a national of the United States, as did Gonzales. Here, however, the alien has been ordered deported under the Act of February 18, 1931. That Act does not set up entry as an alien as an essential element to deportability. All it requires is that [fol. 20] the person sought to be deported be an alien and that he be, or have been, convicted for violation of any law regulating traffic in narcotics after the effective date of the enactment. On this record, the person sought to be deported was convicted 20 years after the enactment of the legislation under which he is sought to be deported, and he was an alien at the time of such conviction, having been an alien for all purposes since July 4, 1946.

On the basis of the foregoing, we find that the motion for reconsideration must be denied. We will now so order.

Order: It is ordered that the motion for reconsideration be and the same is hereby denied.

(S.) Thos. Finucane, Chairman.

[fol. 21] UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Mar 1 1955

File: A5 203 748—Seattle.

In re: Hermogenes Ragonton Rabang or Henry Ragonton Rabang or Jimmy Randall.

In Deportation Proceedings.

In Behalf of Respondent: C. T. Hatten, Esquire, New World Life Building, Second Avenue at Cherry, Seattle 4, Washington.

Charges: >

Warrant: Act of 1931—Convicted of narcotic violation.

Lodged: None.

Application: None.

Detention Status: Released on \$500.00 bond.

Motion to the Board of Immigration Appeals

Discussion: The alien is a native and citizen of the Philippine Islands, aged 44 years, who last entered the United States at Seattle, Washington January 24, 1930, and was admitted for permanent residence. He was convicted in the United States District Court for the Western District of Washington, Northern Division, February 12, 1951, for violation of 26 U. S. C. 2554a, which relates to narcotics.

On October 26, 1951 the Assistant Commissioner, Adjudications Division, entered an order directing that the alien [fol. 22] be deported on the charge that on or after June 28, 1940 he has been convicted of the violation of a law relating to traffic in narcotics, to-wit, selling and giving away narcotic drugs, to-wit, Morphine Tartrate Syrettes. On February 6, 1952 the Board dismissed the alien's appeal from the Assistant Commissioner's decision.

In view of the decision of the United States Supreme Court in the case of *Barber vs. Gonzales*, 74 S. Ct. 822, it is deemed advisable that further consideration be given to this case by the Board with a view of terminating the proceedings or for such other action as it deems appropriate.

The alien is not subject to any pending criminal pro-

ceedings under Section 242(e) of the Immigration and Nationality Act.

Motion is hereby made that the Board of Immigration Appeals reopen and reconsider this case and enter such order as is deemed appropriate under the circumstances.

(S.) A. S. Remington, Acting Regional Commissioner, Northwest Region.

JMM gm.

[fol. 23] UNITED STATES DEPARTMENT OF JUSTICE

Board of Immigration Appeals

Feb 6 1952

File No. A-5203748

IN THE MATTER OF HERMOGENES RAGONTON RABANG OF HENRY RAGONTON RABANG alias JIMMY RANDALL

In Deportation Proceedings

In Behalf of Respondent: C. T. Hatten, Esquire, Hatten and Lesser, New World Life Building, Second Avenue at Cherry, Seattle 4, Washington.

Upon consideration of the entire record, it is ordered that the appeal from the decision of the Commissioner be and the same is hereby dismissed.

(S.) Thos. S. Finucane, Chairman.

REL/erc.

Carded Feb 11 1952, enforcement records.

[fol. 24] Warrant—Deportation of Alien

No. A-5203748

To: Chief, Detention and Deportation Section, Immigration and Naturalization Service, Seattle, Washington

Or to any Officer or Employee of the United States Immigration and Naturalization Service.

Whereas, after due hearing before an authorized Hear-

ing Officer, and upon the basis thereof, an order has been duly made that the alien Hermogenes Ragonton Rabang who entered the United States at Seattle, Washington on the 24th day of January, 1930 is subject to deportation under the following provisions of the laws of the United States to wit: The Act of Feb. 18, 1931, as amended, in that, on or after June 28, 1940, he has been convicted of the violation of a law relating to traffic in narcotics, to wit: Sell and give away narcotic drugs, to wit: Morphine Tartrate Syrettes.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his direction, do hereby command you to deport the said alien ~~to~~ Philippine Islands in accordance with law (Sec. 20 of the Immigration Act of Feb. 5, 1917, as amended by the Internal Security Act of 1950—Public Law 831), at the expenses of the appropriation "General Expenses, Immigration and [fol. 25] Naturalization Service, 1951", including the expenses of an attendant if necessary.

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 26th day of October, 1951.

(S.) John P. Boyd, District Director, Seattle District.

Form I-205, (Old W-4a), Immigration and Naturalization Service, (Rev. 10-31-47), 16-10891-1.



## [fol. 26] UNITED STATES DEPARTMENT OF JUSTICE

## Immigration and Naturalization Service

(Appeal 15)

File: A-5203748—Seattle.

In re: Hermogenes Ragonton Rabang or Henry Ragon-  
ton-Rabang alias Jimmy Randall.

Oct 26 1951

In Deportation Proceedings.

In Behalf of Respondent: C. T. Hatten, Esquire, Hatten  
and Lesser, New World Life Building, Second Avenue at  
Cherry, Seattle 4, Washington.

## Charges:

Warrant: Act of 1931—Convicted of narcotic violation.

Lodged: None.

Application: None.

Detention Status: Released on bond.

Discussion: This record relates to a 41-year-old married male, a native and citizen of the Republic of the Philippines, who last entered the United States at Seattle, Washington on January 24, 1930 when he was admitted for permanent residence. On February 12, 1951, in the United States District Court at Seattle, Washington, he was convicted, on his plea of guilty, of selling and giving away narcotic drugs (morphine tartrate syrettes) in violation of 26 U. S. C. 2554a. The Court imposed a jail sentence of six months which was suspended and placed the respondent [fol. 27] on probation for three years.

Counsel, in his brief, contends that the respondent is not now subject to deportation because, as he is on probation, the order entered by the Court is not the final passing of sentence, that if the respondent complies with the terms of probation he will never be imprisoned, and that when final order has been entered discharging him he will be completely discharged or the Court will have 30 days within which to make a recommendation as to deportation.

In view of the fact that the respondent was convicted of a narcotics violation on February 12, 1951, he is deportable even though not required to serve any term of imprison-



ment, and inasmuch as the Court did not, at the time of imposing judgment or passing sentence or within 30 days thereafter, make a recommendation to the Attorney General that the respondent shall not be deported, counsel's contentions are untenable. Notwithstanding the respondent's long residence in the United States and his being married to a United States citizen, in light of the nature and recentness of his conviction of violating a law relating to traffic in narcotics, no administrative discretionary relief is justified.

Upon consideration of the entire record, the recommended order of the officer conducting the hearing is hereby adopted.

Order: It is ordered that the alien be deported from the [fol. 28] United States, pursuant to law, on the charge stated in the warrant of arrest.

— — —, Assistant Commissioner, Adjudications  
Division.

Carded Jan 3, 1952, Enforcement Records.

[fol. 29] TRANSMISSION OF RECORDS OF WARRANT HEARINGS  
(omitted in printing)

## [fol. 30] UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service  
Seattle, Washington

File No. A-5203748

Hearing:

Date: March 28, 1951 (9:15 A. M.).

Place: Room 123, Immigration Station, Seattle.

Hearing Officer: David S. Caldwell.

Examining Officer: Clarence W. Johnson.

Stenographer: Beatrice O. Currie.

Language Used: English.

Interpreter: None.

Representative: J. Edmund Quigley, Dexter Horton Building, Seattle.

Respondent: Hermogenes Ragonton Rabang alias Henry Ragonton Rabang alias Jimmy Randall.

Hearing Officer to Examining Officer and Counsel:

Q. Are both the parties ready to proceed?

A. (By both) Yes.

Hearing Officer to Respondent:

Q. Do you speak and understand the English language?

A. Yes, sir.

Q. What is your full, true and correct name?

A. Well, my real name when I came to this country was

Hermogenes Ragonton Rabang.

Q. Are you now known as Henry Ragonton Rabang?

A. Yes, sir.

Q. And what is your permanent address?

A. Right now, 803 East Union Street, Seattle, but I have another address, 422 Maynard Avenue. I take some of my mail down there.

Q. Will you please stand up and be sworn. Raise your right hand. Do you solemnly swear that all the statements you are about to make in this proceeding will be the truth,

the whole truth, and nothing but the truth, so help you God?

A. I do.

[fol. 31] Hearing Officer to Examining Officer:

Q. What is the nature of this proceeding?

A. Expulsion proceedings against the respondent on charges set forth in the executed warrant of arrest, which I now hand you, pursuant to a notice of hearing, which I also now hand you.

Hearing Officer to Respondent:

Q. Have you ever used or been known by any other name or names, other than those you have mentioned?

A. Well, my alias, Jimmy Randall.

Q. Any other aliases that you have used?

A. That is all.

Q. When and for what reason did you use this alias?

A. Well, because, it was years ago and I just wanted because I have some trouble in Stockton and I started going by Jimmy, but my real name is the same though, you know.

Q. I now show you a Warrant of Arrest No. A-5203748, issued February 27, 1951, by the Acting District Director of the Seattle District of the Immigration & Naturalization Service at Seattle, Washington, for the arrest of one Henry Ragenton Rabang. This warrant is endorsed to show service upon that person at Seattle, Washington, on March 21, 1951. Were you served with a copy of this warrant of arrest as indicated herein?

A. Ya, I have, but I don't have it right now.

Q. You were served with a copy of it?

A. Yes.

Q. I also show you a Form Letter I-226, notifying you of the place and date of hearing in your case, which letter is endorsed to show personal service on March 28, 1951. Did you also receive a copy of this letter?

A. Yes.

Q. This warrant of arrest and Form Letter I-226 are entered of record, respectively, as Exhibits 1 and 2. Do you understand?

A. Yes, sir.

Q. This warrant charges that you appear to be deportable from the United States for the reason that on or after [fol. 32] June 28, 1940, you have been convicted of a violation of law relating to traffic in narcotics, to wit: selling and giving away narcotic drugs, namely, morphine tartrate syrettes. Do you fully understand the nature of this charge against you?

A. Yes, sir.

Q. At this hearing you may be represented by counsel of your own choice and at your own expense, which counsel may be an attorney at law or any person duly qualified to practice before this Service and the Board of Immigration Appeals. Do you desire to be so represented?

A. Yes, my attorney, Mr. Quigley.

Hearing Officer to Counsel:

Q. Will you please state your name, business address and phone number for the record?

A. J. Edmund Quigley, 955 Dexter Horton Building; telephone, Main 5313.

Q. Have you filed a notice of appearance in this case?

A. Yes, this morning.

By Examining Officer: Notice of appearance is in the record.

Hearing Officer to Counsel:

Q. Have you been retained by the respondent to represent him in this proceeding?

A. I have, yes.

Q. And have you been admitted to practice before this Service and the Board of Immigration Appeals?

A. I have an application pending.

Q. Are you ready at this time to proceed with the hearing in the case of the respondent?

A. Yes, I am.

Hearing Officer to Examining Officer:

You may proceed, Mr. Johnson.

**Examining Officer to Respondent:**

Q. What is your present address:

A. 803 East Union.

[fol. 33] Q. When and where were you born?

A. I was born in the Islands, in the Philippine Islands, on April 23, 1910.

Q. What city and province, please?

A. Santa Catalina, Ilocos Sur.

Q. Of what country are you now a citizen?

A. Well, I am an American because I was born under the American flag.

Q. Did you ever acquire United States citizenship?

A. Well, no, sir, because I know I am an American, you know.

Q. What do you mean, you are an American?

A. Well, I was born under the American flag and when I came to this country the Island was still under the United States Government. It was only five years ago that they have independence, you know.

Q. You claim you are an American because you were born in the Philippine Islands then?

A. Yes, sir.

Q. You never acquired United States citizenship through any other method that you know of?

A. No, sir.

Q. You consider yourself a citizen of the Philippine Islands then?

A. Well, I consider myself as an American because most of my life I live here.

Q. To your knowledge, did you ever obtain citizenship of any other country?

A. No, sir, I have never been out of this country.

Q. Did you ever apply for naturalization in this country?

A. No, sir.

Q. When and where did you enter the United States?

A. Well, I left the Islands January 4, 1930, and I arrived here in Seattle the 24th, and I stay overnight here and I took the "Alexander" to Frisco.

Q. You arrived in Seattle on January 24, 1930, then?

A. Yes, sir.

Q. On what ship did you arrive?  
[fol. 34] A. "President Pierce".

Q. I now present for your inspection Form I-404, Certificate of Admission, which indicates that Hermogenes Rabang, a citizen of the Philippine Islands, was admitted to the United States at Seattle, Washington, on January 24, 1930, on the SS "President Pierce", and that he was admitted for the purpose of residing for permanent residence. Would you please indicate whether or not the Hermogenes Rabang, shown in this Certificate of Admission, is you?

(Respondent and attorney examine certificate).

A. Yes, sir.

Examining Officer to Hearing Officer:

Q. I offer Form I-404 in evidence?

A. Form I-404, dated February 13, 1951, in the name of Hermogenes Rabang, will be received in evidence as Exhibit No. 3.

Hearing Officer to Respondent and Counsel:

Q. Do you have any objection to its introduction into the record?

A. (By Counsel) No.

Examining Officer to Respondent:

Q. Have you been absent from the United States since the date of your entry on January 24, 1930, Mr. Rabang?

A. Well, the only time I left the United States, but I don't think it is considered, I left the United States when I came to Alaska, because Alaska is territory of United States, so I never left the United States, sir.

Q. Have you been to Alaska on several occasions?

A. Every summer except—

Q. Did you ever stop at Canada on your trip to Alaska or your return from Alaska?

A. No, sir.

Q. You haven't been absent to any foreign country since January 24, 1930?

A. No, sir.

Q. Have you ever been arrested and deported from the United States?



[fol. 35] A. No, sir.

Q. Have you ever been arrested?

A. Yes, sir.

Q. When and where were you first arrested.

A. Well, I was first in California.

Q. When and where in California?

A. I think my first one was in Stockton, California.

Q. When?

A. That was 1938. I am not quite sure because when the officers brought me here they said they were looking for the record.

Q. What was the charge?

A. Disorderly conduct.

Q. What was the disposition of this case?

A. They sent me out of town. They give me a floater.

Q. Was there any fine or sentence to imprisonment?

A. No, sir.

Q. When and where were you next arrested?

A. Well, next is Sacramento.

Q. When?

A. I think it was 1939, I think.

Q. What was the charge?

A. Well, suspicion of armed robbery.

Q. What was the disposition of this case?

A. They found out I didn't have anything to do with it, so they just put me out of town.

Q. Was there any fine or sentence in this case?

A. No, sir.

Q. When and where were you next arrested?

A. After that I went to Los Angeles and I was picked up again down there for suspicion of murder.

Q. When?

A. I am not quite sure about the date but I think it was in 1944, I think, or something, I am not quite sure about the date.

[fol. 36] Q. What was the disposition of this case?

A. Well, they finally found the murderer, so they turned me loose. Just kept me down for a couple of nights, I think.

Q. When and where were you next arrested?

A. It was in the State of Washington, in Seattle.

Q. When? Approximately when?

A. Oh, it must be around 1946, something like that. I am not quite sure, it has been a long time.

Q. What was the charge?

A. Disorderly.

Q. Disorderly conduct?

A. Yes, sir.

Q. What was the disposition of this case?

A. Well, they just, I didn't have no—I think the case was dismissed, you know.

Q. Was there any fine or sentence to imprisonment?

A. No, sir.

Q. When and where were you next arrested?

A. Right here in the same town. Right here in Seattle.

Q. When?

A. It was 1948—excuse me, I think '49, something like that, '49.

Q. What was the charge?

A. Well, those cops in this town just pick me up and turn me loose. They wanted to ask me questions, this and that, and I told them I don't know anything about their business or this and that, you know.

Q. Were you fined or sentenced to any term of imprisonment?

A. No, they just turn me loose.

Q. When and where were you next arrested?

A. They just pick me up.

Q. When? Approximately?

A. A couple months after the first one.

Q. What was the charge?

A. Same thing, they pick me up, stay overnight, and let me loose. I say I don't know nothing about it.

[fol. 37] Q. When and where was the next time you were arrested?

A. The third time they pick me up again and they give me a State vagrancy.

Q. What was the disposition of that case?

A. Well, it went up to the court and when we went to the court, the case was dismissed.

Q. When was that charge placed against you?

A. I think it was 1949.

Q. When and where were you next arrested?

A. Well, the next one, I was arrested in 19—I think it

was 1950, I am not quite sure about the date, but I was arrested around 1950, I think, but I am not quite sure about the date, you know.

Q. What were you charged with?

A. Well, I was charged with, I don't even remember what I was charged with then, but I know I had a fine of \$100.00.

Q. Any sentence to imprisonment?

A. No, sir.

Q. You don't remember the charge?

A. I can't remember. All I know is we went up to a certain place and we were all—the place was raided and I was one of the boys down there and there were lots of boys, you know.

Q. Was this a gambling house in which you were raided?

A. No, it is a private house.

Hearing Officer to Respondent:

Q. Was that in Seattle?

A. Yes, sir.

Examining Officer to Respondent:

Q. When and where were you next arrested?

A. Well, the next one is this one when I was arrested on this narcotic charge.

Q. Where was that?

A. Right here in town.

Q. And when?

A. I think it was last March.

[fol. 38] Hearing Officer to Respondent:

Q. March of 1950?

A. Yes, sir.

Examining Officer to Respondent:

Q. I now show you a certified copy of indictment, Judgment, Sentence and Order of Probation in the United States District Court, Seattle, Washington, which indicates that one Henry Ragonton Rabang was indicted for unlawfully selling and giving away a quantity of narcotic drugs, to wit: five Morphine Tartrate Syrettes, and that he was convicted upon his plea of guilty of the aforementioned

charge on February 12, 1951. Does the Henry Ragonton Rabang referred to in this record relate to you?

(Respondent and counsel examine documents).

A. Yes, sir.

Examining Officer to Hearing Officer:

Q. I offer the afore-mentioned certified copies in evidence?

A. Certified copy of Indictment No. 48120, issued in the United States District Court, Western District of Washington, Northern Division, together with a Judgment, Sentence and Order of Probation of this same number, dated February 12, 1951, will be received in evidence as Exhibit No. 4.

Hearing Officer to Respondent and Counsel:

Q. Do you have any objection to its introduction?

A. (By counsel) No.

Examining Officer to Respondent:

Q. Have you ever been arrested at any other times other than those you have just related?

A. No, sir.

Q. Do you have any close relatives in the United States?

A. Well, I have a brother.

Q. Where is he residing?

A. Well, he used to live in Stockton, but I don't know where he lives right now.

Q. Are you married?

A. Yes, sir.

[fol. 39] Q. What is your wife's name?

A. Carmel Verano.

Q. When and where were you married?

A. I was married last summer in here, in town.

Q. What is the date of your marriage?

A. June 15, 1950.

Q. Of what country is your wife a citizen?

A. Well, I—United States.

Q. Where was she born?

A. She was born in Oklahoma.

Q. Have you or your wife ever been married before?

A. No, sir—yes, yes, sir.

Q. Was your wife married previously?

A. Yes, sir.

Q. Have you been married previously?

A. No, sir. Just my wife.

Q. How did your wife's first marriage terminate?

A. Her husband died.

Q. When did he die?

A. Last March, 1950.

Q. Has your wife only been married one time previously?

A. I cannot understand that exactly.

Q. Where was your last place of employment?

A. Norselanders Seafood Restaurant, Seattle.

Q. How long were you employed there?

A. Oh, it was a month.

Q. What was your salary?

A. Well, \$6.50 a day. I was regular bus boy.

Q. Is your wife employed?

A. No, sir.

Q. Is your wife dependent upon you for her support?

A. Yes, sir.

Q. Do you have any children?

[fol. 40] A. No, sir.

Q. Do you have any property in the United States, such as a home, automobile, furniture?

A. Yes, sir.

Q. What type of property do you have?

A. Well, we have the house.

Q. Is your home mortgaged?

A. Well, it is not yet paid for if that is what you mean.

Q. What is the value of your interest in the home?

A. Well, we bought the place for around \$15,000.

Q. And how much have you paid?

A. We have paid around \$3,500 right now.

Q. Do you own an automobile?

A. No, sir.

Q. Do you have any stocks or bonds?

A. No, sir.

Q. Do you have a bank account?

A. No, sir.

Q. Do you have any cash or other assets?

A. A little bit.

Q. How much? Approximately how much?

A. Well, I have \$22.00 down there in the County Building.

Q. In the event you are found deportable from the United States, Mr. Rabang, to which country do you desire to be sent?

A. Will you repeat that question once more?

Q. In the event you are found deportable from the United States, to which country do you wish to be sent? Do you wish to be sent back to the Philippine Islands?

A. Well, I guess so.

Q. Are you now or have you ever been addicted to drugs?

A. No, sir.

By Examining Officer: I have no further questions.

Hearing Officer to Respondent:

[fol. 41] Q. Then in effect you are not now nor have you ever been a narcotic addict. Is that correct?

A. No, sir.

Hearing Officer to Counsel:

You may examine him.

Counsel to Respondent:

Q. Mr. Rabang, this matter in Federal Court that you examined the indictment on, were there any promises or representations made to you when you entered your plea to the effect that you would not be deported or to the effect that if you did enter a plea, why certain things would or would not happen?

A. I did not make any promise.

Q. Did they make any promise to you?

A. No.

Q. And under that matter you were given probation, is that correct?

A. Yes, sir.

Q. You didn't have to serve any time in the County Jail?

A. No, sir, I got six months suspended and three years probation.

Q. But you didn't have to serve any time?

A. No, sir.



Q. And under these other matters you related to the Examiner, never resulted in any conviction of any kind other than the one where you paid \$100 fine? I mean, you gave a history of the different times you were picked up and that sort of thing, but you have never been convicted of anything except the time you paid the \$100 fine?

A. No, sir.

Q. You have been in the country twenty some years now. Is that correct?

A. Twenty-two years now.

Q. And during that time have you been steadily employed? You have always been working?

A. Yes, sir.

Q. And your work has been seasonal, has it? Going to Alaska?

[fol. 42] A. Yes, sir.

Q. And this work you spoke of as a bus boy, is that merely to fill in during seasons in Alaska?

A. Yes, sir, but after the Alaska season sometime I go to farm and work.

Q. What is the Alaska season? What is considered the Alaska season?

A. It starts from April to August, sometimes September.

Q. And what work do you do up there?

A. I operated a catching can machine.

Q. It is in connection with the salmon packing business?

A. It is.

Q. And who is your employer up there?

A. The Pacific American Fisheries.

Q. How many seasons have you worked for them?

A. Well, I started going in 1939, '40, '41, '42 I didn't go to Alaska, I didn't go for two years. I work for Pacific American Fisheries from 1939 to '41 and—I beg your pardon, I think it was—ya, that is right, '42 I didn't go to Alaska. After that I went to Wingard Packing Company for two years. Then I went back to the Pacific American Fisheries in 1948 up to 1950.

Q. I see. And what sort of salary did you earn on that job, the approximate salary?

A. Approximately around—

Q. Per season?

A. Around \$600.

By Counsel: I have no further questions.

By Examining Officer: I have no further questions.

### Hearing Officer to Respondent:

Q. Are you now or have you ever been a member of the Communist Party?

A. No, sir.

Q. Now, then, you mentioned that your assets were approximately \$3500 equity in a home. Is that home in your name and in your wife's name?

[fol. 43] A. In my wife's name.

Q. Is any of your money involved in this equity or is it all your wife's money?

A. Some of my money, too.

Q. Now, how long were you confined or in jail in connection with this last arrest of yours during the pendency of your trial or were you out on bond?

A. I was released on bond.

Q. Is your wife totally dependent upon you for support or does she have outside income or means?

A. Well, she is depending on me.

Q. Has she worked at any time during your marriage?

A. She works in the apartment, some rooms, some transient rooms.

Q. Is this property you mentioned, an apartment house?

A. Yes, sir, it is a small apartment house.

Q. And you rent out various rooms?

A. Quite a few.

Q. How many rooms do you have to rent?

A. We have four rooms and apartment.

Q. Four rooms and your own personal apartment?

A. No, there is one more apartment rented.

Q. One more apartment besides your apartment?

A. Yes, sir.

Q. Then in effect you rent four rooms and another apartment?

A. Yes, sir.

Q. What is your normal income for these rentals? How much do you get a month?

A. We get around \$140 a month.

Q. What payments do you have to make in connection with your mortgage?

A. We pay \$100 a month.

Q. Does your wife have any trade or profession that she would normally work at if your support was taken away from her?

A. Ya, she work in a defense plant before, but she has been very sick lately now and has been in a hospital for [fol. 44] quite awhile.

Q. Is this a passing illness or what is the nature of her infirmity?

A. Well, she gets too nervous and the doctor advise her to stay in the hospital for more than a month.

Q. Did your wife inherit any property from her husband whom you testified died in March of last year?

A. Well, she had a house on 23d Avenue.

Q. Does she receive any income from any insurance that he may have left her in annuities?

A. I don't think so.

Hearing Officer to Counsel:

Q. Do you wish to examine in connection—

A. No.

Hearing Officer to Respondent:

Q. Do you have any evidence or statement to make in your own behalf as to why you should not be deported from the United States?

A. No..

Hearing Officer to Counsel:

Q. Do you have anything more to present?

A. At this time I haven't, but in discussing the matter with Mr. Johnson here before the hearing, we went briefly through the file with him and the thought struck me, and I am sure it struck him, although I am in no position to speak as to his reaction, but there must have been something in Judge Bowen's mind when such a light sentence was imposed on this matter and I would like an opportunity to investigate and see what it is. In my experience,

it is quite unusual for Judge Bowen to give six months in the County Jail and suspend that.

By Respondent: Well, I got three years probation.

By Counsel (continuing): I am certain that some investigation should bring something that would be helpful to us and be in this boy's favor, and in light of that, I must confess I am unfamiliar with the procedure as to whether or not it is proper to ask for a continuance or not, but if it is, I will ask for it.

[fol. 45] Hearing Officer to Counsel:

Q. Before I consider a continuance, I might advise you that notwithstanding the background or the possible conclusions that might have been drawn by the Judge at the time he sentenced the respondent, I, of course, in determining and making my decision in this case am bound by the record, primarily the record of conviction, and the only phase of the record that I may go into would be the indictment setting forth the crime as alleged at that time and beyond that I would be restricted in considering any extenuating circumstances that the Judge may have considered. So for that reason, I cannot see that a continuance for obtaining possible information in that light would be of any effect. However, you may at any time prior to the transmittal of this case to the Commissioner for further consideration, may file a motion to reopen if there is material evidence that you consider should be contained in the record.

A. What period of time will elapse before it is transmitted to the Commissioner?

Q. After I have prepared and served my decision, you will get a period of five days within which to file exceptions thereto, and in the event exceptions are filed, well in either event, it will be forwarded to the Commissioner for further consideration. In this type of case, I may only make a recommended order, my decision is not final. And even if the decision of the Commissioner is objectionable, you may then further appeal to the Board of Immigration Appeals if you so desire.

A. Would we have a hearing before the Commissioner or is it based on the record?

Q. No, it is based on the record. After he gives his findings, you may except to those findings as well, and, of course, it would go to the Board of Immigration Appeals.

A. Well, then, at this time I must again preface it by saying I don't know if it is proper to make this motion, but I would like to make a motion for the reduction of bond and let the boy out on a good sufficient bond?

Q. Well, that motion is one that cannot be considered by me because that is administered by the District Director through his Adjudications Officer here and, of course, I have no control in the matter in so far as that is concerned, so for that reason, I won't consider the motion.

[fol. 46] A. But it is something that can properly be presented?

Q. Yes.

By Hearing Examiner: Off the record.

Hearing Examiner to Respondent:

Q. There being no other matters, you are advised that I am now going to orally discuss for the record a brief summary of the evidence upon which I will base my findings of fact, conclusions of law, and recommended order.

#### Discussion of the Evidence

The respondent has testified that he is a native of the Philippine Islands and that he believes himself to be American because at the time of his birth, the Philippine Islands was then a protectorate of the United States. The respondent has further testified that he has at no time acquired citizenship of any other country and as at the time of the respondent's birth, natives of the Philippine Islands were then considered Nationals of the United States but not citizens of the United States, and as the respondent has acquired no other citizenship, it is concluded that he is a native and citizen of the Philippine Islands. He has testified that he last entered the United States at Seattle, Washington, on January 24, 1930, at which time he was admitted for permanent residence. This entry has been verified by Exhibit No. 3, which the respondent identified as relating to him, which exhibit shows that he entered on the SS "President Pierce", that his head tax status was exempt



and he was admitted as a citizen of the Philippine Islands. Exhibit No. 4 which the respondent identified as relating to him is a certified copy of Indictment filed by the United States District Court, Western District of Washington, Northern Division, on March 24, 1950, charging the respondent with violation of Section 2554a of Title 26, of the United States Code, in that he unlawfully sold and gave away a quantity of narcotic drugs, to wit: five Morphine Tartrate Syrettes, each containing one-half grain of Morphine Tartrate. On February 12, 1951, the respondent plead guilty to the crime as charged in the indictment, and as a result thereof, was convicted and sentenced to a term of imprisonment of six months, which sentence was suspended and thereupon the respondent was placed upon probation for a period of three years commencing from that date. The respondent has testified that he is not now [fol. 47] nor has he ever been a narcotic addict.

The respondent is presently married to a United States citizen and he has testified that she is dependent upon him for support, that she is employed, however, to the extent that the apartment house which they own has rentals of four transient rooms as well as another apartment which is taken care of by her. From these rentals they obtain approximately \$140 per month. Of this \$140, \$100 is used to reduce the mortgage on the apartment, of which their equity is now \$3,500, the selling price being \$15,000.

#### Findings of Fact

Upon the basis of all the evidence adduced, it is found:

(1) That the respondent is an alien, a native and citizen of the Philippine Islands;

(2) That the respondent last entered the United States at Seattle, Washington, on January 24, 1930 ex SS "President Pierce", at which time he was admitted for permanent residence;

(3) That the respondent was convicted in the United States District Court, Western District of Washington, Northern Division, on February 12, 1951, for violation of Title 26, U. S. C., Section 2554a, which law relates to narcotics;

(4) That the respondent is not now nor has he ever been a narcotic addict or user of narcotics.



## Conclusions of Law

Upon the basis of the foregoing findings of fact, it is concluded:

(1) That under the Act of February 18, 1931, as amended, the respondent is subject to deportation in that on or after June 28, 1940, he has been convicted of the violation of a law relating to traffic in narcotics, to wit: selling and giving away narcotic drugs, to wit, Morphine Tartrate Syrettes.

## Decision

It is recommended that the alien be deported from the [fol. 48] United States pursuant to law on the charge as stated in the warrant of arrest.

## Hearing Officer to Respondent:

Q. Have you understood this decision and recommended order?

A. Yes.

## Hearing Officer to Respondent and Counsel:

Q. Do you wish to take any exceptions to this recommended decision?

A. (By counsel) Yes, for the record, we do.

Q. You are advised that you will be given a period of five days from today's date within which to file exceptions to this recommended decision. Do you understand?

A. (By counsel) Yes.

By Hearing Officer: This hearing is now closed.

I certify that the foregoing is a true and correct transcript of the testimony taken by me in the above entitled case.

(S.) Beatrice O. Currie, Stenographer, Book No. 787; 5 copies; pp. 1-16, inc. Transcribed March 29, 1951.

I certify that to the best of my knowledge and belief this record is a true report of everything stated during the course of the hearing, including oaths administered, except statements made off the record.

(S.) David S. Caldwell, Immigrant Inspector (Hearing Officer).

[fol. 49]

## UNITED STATES OF AMERICA

DEPARTMENT OF JUSTICE, SEATTLE WASHINGTON

No. A-5203748

To Chief, Investigation Section, Immigration and Naturalization Service, Seattle, Wn., or to any Immigrant Inspector in the service of the United States.

Whereas, from evidence submitted to me, it appears that the alien Henry Ragonton Rabang who entered this country at Seattle, Washington ex SS "President Pierce" on the 24th day of January, 1930 has been found in the United States in violation of the immigration laws thereof, and is subject to be taken into custody and deported pursuant to the following provisions of law, and for the following reasons, to wit: The Act of Feb. 18, 1931, as amended, in that, on or after June 28, 1940, he has been convicted of the violation of a law relating to traffic in narcotics, to wit: Sell and give away narcotic drugs, to wit: Morphine Tartrate Syrettes.

I, by virtue of the power and authority vested in me by the laws of the United States, hereby command you to take into custody the said alien and grant him a hearing to enable him to show cause why he should not be deported in conformity with law. The expenses of detention, hereunder, if necessary, are authorized payable from the appropriation "Salaries and Expenses, Immigration and Naturalization Service, 1951." Authority has been granted to release under \$1,000 bond the alien named.

For so doing, this shall be your sufficient warrant. Witness my hand and seal this 27th day of February, 1951.

L. W. Williams, Acting District Director, Seattle District.

[fol. 49a]

Port of \_\_\_\_\_

Date \_\_\_\_\_

19

## Warrant for Arrest of \_\_\_\_\_

Served by me at Seattle Wash. on March 21, 1951, at 10:45 A. M. Alien was then informed as to cause of arrest, the conditions of release as provided therein, advised as to right of counsel and furnished with a copy of this warrant.

(S.) Charles R. Smith (Signature of officer), Investigator (Title).

[fol. 50]

April 4, 1951.

United States Department of Justice,  
Immigration and Naturalization Service,  
815 Airport Way,  
Seattle 4, Washington.

Att: Commissioner of Immigration and Naturalization.  
Re: File No. A-5203748, Subject: Henry Ragonton Rabang.

Gentlemen:

I have received from your office, over the signature of David S. Callwell, Hearing Officer, a transcript of the hearing held on March 28, 1951, involving the above named individual. Since attending this hearing, I have made an investigation relative to the charge on which Mr. Rabang was indicted and entered a plea of guilty. I find that Mr. Rabang came into the possession of the five Morphine Tartrate Syrettes very casually with absolutely no criminal intent whatsoever, and without any understanding that he was doing wrong. He held the Syrettes for approximately one year and passed them on, on the representation that the party to whom he was giving them was sick and needed some medication. The sale part was entirely immaterial and he was given only a couple of dollars at the time. The purchaser sought him out on many occasions, attempting to complete the transaction and also attempt-

ing to ascertain whether or not Rabang had any source of supply. Rabang of course, had none and so informed purchaser.

Some time went by before he was indicted, but when he was taken into custody he made a full disclosure of the whole matter. As time went on and the case was moving along for a trial date, it became apparent to the United States Attorney's office that the case was very weak and furthermore that the only possible witness to the transaction had left the country and would be unavailable for any trial. The United States Attorney's office at this point had received the requested instructions to dismiss the case, but Rabang, feeling that he had done something wrong, insisted that he should not take advantage of this situation and he entered a plea of guilty in order to do what he thought would clear his record.

I have talked with Mr. Robert Stewart of the United States Probation Office, and he gives a very fine report on [fol. 51] Henry Rabang. He knows the whole story behind the case and feels that it would be extremely unfair to this man to proceed with the deportation on the basis of these facts. The foregoing facts can be verified by Mr. Stewart and by Mr. John Dore, Assistant United States Attorney for this district.

In view of the fact that this man has been in this country some twenty-one years or more, and other than some minor matters, has conducted himself properly, and in view of the fact that he is married, with a wife who is dependent, if not totally, at least to a large extent upon his earnings, and especially in view of the fact that he and his wife are substantial enough to be acquiring some property here, attempting to live a law abiding life, I feel sincerely that the extreme penalty of a deportation in this case is entirely out of line with the offense committed.

I should at this time like to request a further hearing before the Commissioner of Immigration and Naturalization to the end that the decision of the hearing officer as rendered on March 28th, might not become final.

Respectfully yours, (S.) J. Edmund Quigley.

JEQ:he

[fols. 52-53] LETTER OF NOTIFICATION OF  
HEARING (omitted in printing)

[fol. 54]

Port of Seattle, Washington,  
Date February 13, 1951.

I Hereby Certify that the following is a correct record and statement of facts relative to the admission to the United States of the alien named below:

- (1) Manifest No., 12336/16-4; Class, Third.
- (2) S. S., President Pierce; Line, President.
- (3) Port at which admitted, Seattle, Washington; Date, 1-24-30.
- (4) Name, Rabang Hermogenes; Age, 20; Sex, M.
- (5) Married, S; Occupation, —; Able to read, —; Write, —.
- (6) Citizen of, Philippine Islands; Race, Filipino.
- (7) Place of birth, Sta. Catalina, Ilocos, P. I.
- (8) a. Class of immigration —; visa, —; No. —; Issued at —; Date —. b. Transit Certificate No. —; Issued at —; Date —.
- (9) Last permanent resident, —.
- (10) Name and complete address of nearest relative or friend in country whence alien came, —.
- (11) Destination, P. O. Box No. 64, Visalia, Cal.— By whom passage paid, —; Money brought, —.
- (12) Whether in U. S. before, —; When, —; Where, —.
- (13) Whether going to relative or friend, —; Give name and complete address: —.
- (14) Purpose of coming to U. S., reside; Intended length of stay, perm.
- (15) Condition of health, —.
- (16) Height, —; Complexion, —; Color of hair, —.
- (17) Color of eyes, —; Identification marks, —.
- (18) Examined by Inspector, J. P. Sanderson; Head tax paid, Exempt adm as cit of P. I.
- [fol. 55] (19) Accompanied by —; How admitted, Primary.

(20) Purpose and period of time for which admitted,  
Perm Residence.

(21) Remarks: ar No. 5-203-748.

(Signature) — — —, Acting Verification Clerk  
(Official title), (S) Genevieve K. Hahn,

Form I-404, U. S. Department of Justice, Immigration  
and Naturalization Service, Edition of 12-15-43.

[fol. 56] UNITED STATES DISTRICT COURT,  
WESTERN DISTRICT OF WASHINGTON, NORTHERN DIVISION

No. 48120

UNITED STATES OF AMERICA, Plaintiff,

vs.

HENRY RAGONTON RABANG, Defendant.

### Indictment

The Grand Jury charges:

#### Count I

That on or about March 24, 1950, at Seattle, in the Northern Division of the Western District of Washington, Henry Ragonton Rabang did unlawfully sell and give away a quantity of narcotic drugs, to-wit, five Morphine Tartate Syrettes, each containing one-half grain of Morphine Tartrate, not in pursuance of a written order of the person to whom such Morphine Tartrate was sold and given away and not on a form issued in blank for that purpose by the Secretary of the Treasury.

All in violation of Sec. 2554a, Title 26, U. S. C.

A True Bill.

(S) David E. Lockwood, Foreman, (S) J. Charles  
Dennis, United States Attorney, (S) John F. Dore,  
United States Attorney.

[fol. 57] Endorsed; Presented to the Court by the Fore-  
man of the Grand Jury in open Court in the presence of



the Grand Jury, and Filed in the U. S. District Court, July 13, 1950, Millard P. Thomas, Clerk, By Lee L. Bruff, (S), Deputy.

I hereby certify that the annexed instrument is a true and correct copy of the original on file in my office.

Attest: Millard P. Thomas, Clerk, U. S. District Court, Western District of Washington.

By William Ferguson, Deputy Clerk.

[fol. 58] UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON, NORTHERN DIVISION

No. 48120

UNITED STATES OF AMERICA, Plaintiff,

vs.

HENRY RAGONTON RABANG, Defendant

Judgment, Sentence and Order of Probation

On this 12th day of February, 1951, the attorney for the Government, and the defendant, Henry Ragonton Rabang, appearing in person, and being represented by Will G. Beardslee his attorney, the Court finds the following:

That prior to entering his plea, a copy of the Indictment was given the defendant; that the plea of guilty was entered by the defendant and was made voluntarily with understanding of the nature of the charge; that the Probation Officer of this District has made a presentence investigation and report to the Court; now, therefore,

It is adjudged that the defendant has been convicted upon his plea of guilty of the offense of violation of Section 2554a, Title 26, U. S. C., as charged in Count I of the Indictment, there being only one count in the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being [fol. 59] shown or appearing to the Court,

It is adjudged that the defendant is guilty as charged in Count I of the Indictment and is convicted.

It is adjudged and ordered that the defendant be committed to the custody of the Attorney General of the United States or his authorized representative for confinement in the King County Jail, Seattle, Washington, or such other like institution as the Attorney General of the United States or his authorized representative may by law designate, for the period of six (6) months on Count I of the Indictment.

Provided, however, that the execution of the service of the sentence imposed on Count I shall be and it is hereby Suspended and the defendant placed on probation as provided by law for a period of Three (3) Years, commencing this date, upon the following conditions:

1. The defendant shall be placed upon probation as provided by the statutes of the United States relative to probation during his good behavior and until further order of the Court.

2. That the defendant doesn't unlawfully possess or use narcotics in any form.

3. That said defendant does not during said probationary period violate any laws of the United States or of any state or community where he may be, and shall report [fols. 60-97] regularly to the United States Probation Officer at the times and in the manner said officer shall direct.

Done in open Court this 12 day of February, 1951.

(S.) John C. Bowen, United States District Judge.

Presented by: John F. Dore, Asst. United States Attorney.

Endorsed: Filed in the United States District Court Western District of Washington Northern Division, Feb 12 1951, Millard P. Thomas, Clerk; By Truman Egger, Deputy.

I hereby certify that the annexed instrument is a true and correct copy of the original on file in my office.

Attest: Millard P. Thomas, Clerk, U. S. District Court, Western District of Washington, By William Ferguson (S.), Deputy Clerk.

## Exhibit No. —

[fol. 98]

[File endorsement omitted]

IN UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF  
WASHINGTON, NORTHERN DIVISIONHENRY RAGONTON ~~RABANG~~, Petitioner,

vs.

JOHN P. BOYD, District Director, Immigration & Natural-  
ization Service, Respondent

## FINDINGS OF FACT AND CONCLUSIONS OF LAW—July 29, 1955

The above cause having been heard before this Honorable Court on July 18, 1955, both parties being represented by counsel and having been fully considered by the Court upon the pleadings, briefs and argument of counsel, no testimony being offered;

Now, therefore, the Court being fully advised makes the following Findings of Fact and Conclusions of Law:

## FINDINGS OF FACT

## I

That Petitioner is a native of the Philippine Islands, an alien who has never been naturalized nor has otherwise become a citizen of the United States.

## II

That petitioner last entered the United States at Seattle, Washington on January 24, 1930 and has resided in the United States at all times since.

[fol. 99]

## III

That on February 12, 1951 in the United States District Court, Seattle, Washington, he was convicted on his plea

of guilty of the crime of selling and giving away narcotic drugs, in violation of Title 26, U. S. C., Section 2554(a). He was sentenced to confinement in the King County Jail for a period of six months on Count One of the Indictment. That sentence was suspended and he was placed on probation for three years.

#### IV

That deportation proceedings were instituted against the petitioner February 27, 1951, on the ground that on or after June 28, 1940 he had been convicted of the violation of a law relating to traffic in narcotics, to wit: sell and give away narcotic drugs in the form of morphine tartrate syrettes; that the recommendation of the hearing officer was adopted by the Acting Assistant Commissioner and petitioner ordered deported on October 26, 1951, and that a subsequent appeal was dismissed by the Board of Immigration Appeals.

#### CONCLUSIONS OF LAW

From the foregoing Findings of Fact, the Court makes the following Conclusions of Law:

#### I

That petitioner was convicted February 12, 1951 of a violation of laws relating to traffic in narcotics within the [fol. 100] meaning of former Title 8, U. S. C., Section 156(a).

#### II

That petitioner was at all times herein material, an alien subject to deportation under the above named statute.

#### III

That the administrative deportation proceedings and the warrant of deportation issued prior to the effective date of the Immigration & Nationality Act of 1952 and as such remained valid under the savings clause of that act.

Done in open court this 29 day of July, 1955.

(S.) William J. Lindberg, United States District Judge.

Approved as to Form:

— — —, Attorney for Petitioner.

Presented and approved as to Form:

(S.) F. N. Cushman, Assistant United States Attorney.  
Copy mailed to C. T. Hatten, July 28, 1955.

(S.) F. N. Cushman:

Subscribed and sworn to before me this 28th day of July,  
1955.

(S.) Marian Miller, Deputy Clerk.

[fol. 101] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF  
WASHINGTON, NORTHERN DIVISION

HENRY RAQONTON RABANG, Petitioner,

vs.

JOHN P. BOYD, District Director, Immigration & Natural-  
ization Service, Respondent

ORDER DENYING APPLICATION FOR HABEAS CORPUS  
July 29, 1955

This matter having been heard by the Court on July 18, 1955, both parties being represented by counsel and the Court having considered the pleadings and arguments of counsel and further having heretofore entered Findings of Fact and Conclusions of Law, now therefore,

It is ordered, adjudged and decreed that the application for habeas corpus and other relief be and the same is hereby denied and the order to show cause heretofore issued is discharged.

Done in open court this 29th<sup>th</sup> day of July 1955.

(S.) William J. Lindberg, United States District  
Judge.

Approved as to Form:

— — —, Attorney for Petitioner.

Presented and approved:

(S.) F. N. Cushman, Assistant United States Attorney.

\* \* \* \* \*

Copy mailed to C. T. Hatten July 28, 1955. F. N. Cushman.

Subscribed & Sworn to before me this 28th day of July 1955. Marion Miller, Deputy Clerk.

— — —

[fol. 102] IN UNITED STATES DISTRICT COURT

NOTICE TO COUNSEL OF ACTION OF COURT

August 4, 1955

Mr. C. T. Hatten  
Attorney at Law  
New World Life Bldg.  
Room 424  
Seattle, Washington

Dear Mr. Hatten:

This is to advise you that the Order denying the application for habeas corpus and other relief was signed on the 29th day of July, 1955, by the Hon. William J. Bradford and entered in the Civil Docket on July 30, 1955 in Cause No. 3949, Rabang vs. Boyd. This notification is in accordance with Rule 77(d) FRCP.

Yours very truly, Millard P. Thomas, Clerk, By (S)  
Lois, Deputy.

Im:s.



[fol. 103] IN UNITED STATES DISTRICT COURT

NOTICE OF APPEAL.

Notice is hereby given that Henry Ragonton Rabang, petitioner above named, hereby appeals to the United States Court of Appeals for the Ninth Circuit from that certain judgment denying petitioners request for a writ of habeas corpus, said judgment having been entered in this case on the 30th day of July 1955, and having been signed by the Hon. William J. Lindberg on the 29th day of July 1955.

(S) C. T. Hatten, Attorney for Petitioner.

---

[fol. 104] BOND FOR COSTS ON APPEAL. (omitted in printing).

---

[fol. 105] LETTER OF TRANSMITTAL OF NOTICE OF APPEAL.

---

[fols. 106-107] Clerk's Certificate to foregoing transcript omitted in printing.

---

[fol. 108] IN UNITED STATES COURT OF APPEALS FOR THE  
NINTH CIRCUIT

ORDER OF SUBMISSION—May 10, 1956

Ordered appeal herein argued by Mr. C. T. Hatten, counsel for the Appellant, and by Mr. Richard F. Broz, Assistant U. S. Attorney, counsel for the Appellee, and submitted to the Court for consideration and decision.

[fol. 109] IN UNITED STATES COURT OF APPEALS FOR THE  
NINTH CIRCUIT

ORDER DIRECTING FILING OF OPINION AND FILING AND  
RECORDING OF JUDGMENT—June 14, 1956

Ordered that the typewritten opinion this day rendered by this Court in above cause be forthwith filed by the Clerk, and that a Judgment be filed and recorded in the minutes of the Court in accordance with the opinion rendered.

[fol. 110] IN UNITED STATES COURT OF APPEALS FOR THE  
NINTH CIRCUIT

No. 14,886

HENRY RAGONTON RABANG, Appellant,

vs.

JOHN P. BOYD, District Director, Immigration and  
Naturalization Service, Appellee.

Appeal from the United States District Court, Western  
District of Washington, Northern Division.

OPINION—June 14, 1956

Before: POPE and CHAMBERS, Circuit Judges, and BOLDT,  
District Judge.

BOLDT, District Judge

The only issues in this habeas corpus proceeding are whether appellant is an alien within the meaning of 46 Stat. 1171, as amended,<sup>1</sup> and if so whether appellant, having

<sup>1</sup>The Act of February 18, 1931, chapter 224, 46 Stat. 1171, as amended by Section 21, Chapter 439, Title II, Act of June 28, 1940, 54 Stat. 673, former 8 U. S. C. 156(a) provides:

"Any alien (except an addict who is not a dealer in, or peddler of, any of the narcotic drugs mentioned in

entered and remained in the United States as a national, is deportable under the Act.

[fol. 111] Appellant was born in the Philippine Islands in 1910 and has continually resided in the United States since his arrival as a national in 1930. He never has been and is not now a citizen of the United States.

On February 12, 1951, in the District Court for the Western District of Washington, appellant was convicted on a guilty plea of the crime of selling and giving away narcotic drugs in violation of 26 U. S. C. A. 2554(a).<sup>2</sup> A penitentiary sentence was suspended and appellant was placed on probation for three years.

On February 27, 1951, the Immigration and Naturalization Service instituted proceedings at Seattle for deportation of appellant under the act referred to on the ground that after the effective date of the act appellant had been convicted of violation of 26 U. S. C. A. 2554(a), a "law regulating traffic in narcotics." On October 26, 1951, appellant was ordered deported and subsequent appeal from such order was dismissed by the Board of Immigration Appeals. Thereafter an appeal to this court from the deportation order was dismissed for lack of prosecution. Appellant's petition for writ of habeas corpus, show cause, and declaratory judgment filed May 25, 1955, after hearing was denied by order of the district court and this appeal is from that order.

Appellant specifies error by the district court: (1) in

this act) who, after the enactment of this act, shall be convicted for violation of or conspiracy to violate any statute of the United States . . . taxing, prohibiting, or regulating the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, . . . shall be taken into custody and deported. . . .

"It shall be unlawful for any person to sell, barter, exchange, or give away any of the drugs mentioned in section 2550(a) except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged, or given, on a form to be issued in blank for that purpose by the Secretary." 26 U. S. C. A. 2554(a).

finding that appellant now is an alien; (2) in determining that appellant, who came to the United States in the first instance as a national and did not "enter" as an alien, lawfully can be deported; and (3) in holding that a national of the United States can be divested of such status without a voluntary act of denationalization by such individual and solely from the fact that complete independence from the United States has been granted to persons residing in the territory in which the national was born.

In *Cabebe v. Acheson*, 183 F. 2d 795 (1950) this court held that "the United States government intended the status of Filipinos, regardless of domicile or place of residence [fol. 112] at the date of Philippine independence, to be entirely separate from any phase of adherence to the United States. . . . We hold that Cabebe is . . . an alien." Under varying circumstances the same principle was reaffirmed in *Mangaoang v. Boyd*, 205 F. 2d 553 (1953) and again in *Gonzales v. Barber*, 207 F. 2d 398 (1953), affirmed on other grounds in 347 U. S. 637.<sup>3</sup> In these decisions, to which we now adhere, this court has declined to follow the contentions of appellant in the present case.

The particular statute supporting the order here in question by its terms is applicable to "any alien." It does not directly or impliedly make "entry" a prerequisite to deportation as do the statutes involved in the *Mangaoang* and *Gonzales* cases. The rationale of the cited cases is contrary to petitioner's contention that the power to deport is based on the power to exclude and can only be applied to those who at the time of entry might lawfully have been excluded.

The order of the district court is affirmed.

[File endorsement omitted.]

<sup>3</sup> *Gonzales*, like *Rabang*, entered continental United States as a national and not as an alien. He was held to be an alien by reason of the Philippine Independence Act of 1934, 48 Stat. 456, but not subject to deportation under Section 19 of the Immigration Act of 1917 under which entry as an alien is a prerequisite to deportation. In affirming the judgment the Supreme Court did not discuss the

[fol. 113] IN UNITED STATES COURT OF APPEALS FOR THE  
NINTH CIRCUIT

No. 14886

HENRY RAGONTON RABANG, Appellant,

vs.

JOHN P. BOYD, District Director, Immigration and  
Naturalization Service, Appellee

JUDGMENT—Filed and Entered June 14, 1956

Appeal from the United States District Court for the  
Western District of Washington, Northern Division.

This cause came on to be heard on the Transcript of the  
Record from the United States District Court for the  
Western District of Washington, and was duly submitted.

On consideration whereof, It is now here ordered and  
adjudged by this Court, that the Order of the said District  
Court in this cause be, and hereby is affirmed.

[File endorsement omitted.]

[fol. 114] Clerk's Certificate to foregoing transcript  
omitted in printing.

[fol. 115] SUPREME COURT OF THE UNITED STATES,  
OCTOBER TERM, 1956

No. 403

[Title omitted]

ORDER ALLOWING CERTIORARI—Filed November 13, 1956

The petition herein for a writ of certiorari to the United  
States Court of Appeals for the Ninth Circuit is granted,  
and the case is transferred to the summary calendar.

And it is further ordered that the duly certified copy of  
the transcript of the proceedings below which accompanied  
the petition shall be treated as though filed in response to  
such writ.